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BCS

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/127,767 07/31/98 PATEL

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EXAMINER

KABAKOFF, S

ART UNIT

PAPER NUMBER

2132

DATE MAILED:

S
09/27/01

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Advisory Action

Application No.

09/127,767

Applicant(s)

PATEL, SARVAR

Examiner

Steve Kabakoff

Art Unit

2132

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 19 September 2001 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. **ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).**

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☐ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
- (b) ☐ they raise the issue of new matter (see Note below);
- (c) ☐ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
- (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: _____

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☒ The a) ☐ affidavit, b) ☐ exhibit, or c) ☒ request for reconsideration has been considered but does NOT place the application in condition for allowance because: See Continuation Sheet.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-22.

Claim(s) withdrawn from consideration: _____.

8. ☐ The proposed drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____


Continuation of 5. does NOT place the application in condition for allowance because:

The applicant did not file any claim amendments in his response of September 19, 2001 (paper number 7); instead the applicant argues (i) the claimed inventions allegedly differ from the prior art of record since "in the arrangement recited in independent claims 1 and 12, the first challenge is a random number and the second challenge is a count value... applicant respectfully submits that the arrangement described on page 402 of Menezes utilizes two (2) random numbers as the first and second challenges" and (ii) "if the Examiner wishes to rely on the teachings of Bantz et al in the present rejection, applicant requests the Examiner to reformulate the rejection as a 35 USC 103(a) combination rejection."

In response to point (i): the Final Office action mailed May 11, 2001 (paper number 6) specifically details the Examiner's position that one of ordinary skill in the art at the time of the inventions would know each of the time variant parameters disclosed in Menezes et al is taught to be used for the same purpose in identification and authentication protocols, such as in SKID3 in Menezes et al and in the protocols of the claimed inventions, and thus it would have been obvious to one of ordinary skill in the art to utilize a sequence number or count value in place of a random number in a protocol such as SKID3. This point is made in both the claim rejections as well as in the "Response to Arguments" section of the Final Office action.

It should be further noted the applicant previously admitted "it is further respectfully submitted that the applied reference, at best, may suggest that one of advanced skill in the art could eventually be led to the [applicant's] invention" where the Examiner had previously argued in the "Response to Arguments" section of the Final Office action that the applicant's statement would also apply to one of ordinary skill in the art at the time of the inventions since Menezes et al was a cryptography reference that was used by artisans of ordinary skill in cryptographic protocols.

In response to point (ii): Bantz et al (US 5515439) was not used in the claim rejections (specifically see rejection of claim 11) and was submitted by the Examiner as a supplemental reference "simply as proof that it was known at the time of the invention to offset a counter value to an arbitrary initial value in an authentication protocol to make eavesdropping and replaying attacks from intruders more difficult" (see page 6 of the Final Office action mailed May 11, 2001 (paper number 6)). Thus, in the claim rejections the Examiner maintained it was an obvious practice to initialize a counter to start at some random offset value as an extra layer of cryptographic security for an authentication system and Bantz et al was mentioned as a prior art reference simply as further support for the statement and motivation the Examiner deemed obvious in the claim rejections.


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